

**PROPERTY RIGHTS AND THE  
CONSERVATION OF BIOLOGICAL DIVERSITY  
IN KENYA**

**A THESIS**

**SUBMITTED TO THE**

**STANFORD PROGRAM IN INTERNATIONAL LEGAL STUDIES**

**AT THE STANFORD LAW SCHOOL**

**STANFORD UNIVERSITY**

**IN PARTIAL FULFILMENT OF THE REQUIREMENTS**

**FOR THE DEGREE OF**

**JURIDICAL SCIENCES MASTER**

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**May 1996**

## ABSTRACT

Private property rights that have been presented as a panacea for the tragedy of the commons around the world have not been effective in promoting biodiversity conservation in Kenya. This is due to certain structural shortcomings in the manner of introduction of those rights and their implementation within both the colonial and independence periods.

First, the speed at which these rights were introduced led to the destabilisation of the native communities and the framing of those rights at the wrong level, namely individuals as opposed to communities. This resulted in the marginalisation of segments of the population that contribute significantly to biodiversity conservation. Further, the dictates of internationalisation of most affairs previously carried out at the municipal level, and particularly trade, has led to the need to streamline property rights regimes to match up to the international standards.

The debates on property rights and the conservation of biodiversity at the international level concentrate on intellectual property rights for biotechnology innovations and divide the international community into two blocs of developing and developed countries. The resultant politicisation of these issues presents an opportunity for developing countries like Kenya to shun their role in framing domestic policies that enhance the conservation of biodiversity and make them less reliant on developed countries.

For property rights to contribute to the conservation of biological diversity, they have to blend well with the conditions within which they operate. They also need to take into account the perceptions of property of the persons among whom they apply. Ignoring the circumstances on the ground contributes significantly to the failure of property rights to serve their objectives especially in cases where such rights are super-imposed on communities that have different notions of property holding.

This paper discusses the role of property rights in biodiversity conservation in Kenya from colonialism to date. Placing the debate within both the national and international contexts, it proposes the need to reconceptualise, where appropriate and feasible, the level at which property rights are framed. It also suggests ways that could make individual or private property rights enhance rather than hinder the conservation of biodiversity.

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